

Exhibit 61

Business to Business

A quarterly newsletter from Centeon's Corporate Accounts and Sales Operations
April 1996 Number 1

REDACTED

In This Issue:

- ✓ MediSpan: Who are they and how do they work with home care pharmacies?
- ✓ Current IGIV and Coagulation AWP Lists

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C4IG/8:00003

ABAWP 000846
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MediSpan

Drug files, such as MediSpan, Red Book Drug Topics, and First Data Bank, publish pharmaceutical product pricing information (average wholesales prices). Product and pricing information is obtained from the pharmaceutical manufacturer either at the time the product is launched or when there is a pricing change.

Average wholesale price (AWP) is common language among all insurance carriers. AWP's are set by manufacturers as a "suggested retail" for the products they produce. These figures represent a reasonable profit margin to healthcare providers and as such are widely referenced by insurance carriers (Medicare, Medicaid, and third-party payers) when establishing reasonable and customary allowables.

Both Red Book Drug Topics and First Data Bank serve as data resources to all state Medicaid programs. Each publication lists drugs by brand name in alphabetical order with its corresponding descriptions. AWP's listed by these publications do not reflect actual reimbursement allowables by any specific carrier and should not be quoted as such to any healthcare provider. *"We are not a provider, they need to confirm reimbursement with individual carriers." J. Pugliese.*

AWP's differ from DP (direct price). The DP is the amount charged to the provider. A growing trend in the insurance arena, especially among state Medicaid programs, is reimbursement methodologies based on acquisition cost. Providers are required to submit actual invoices showing manufacturer DP. The DP becomes the actual reimbursed allowable.

In the past several months there have been a number of incidences of home care pharmacies quoting AWP differentials from MediSpan. Traditionally, MediSpan has been referenced by hospital pharmacies. Home care pharmacies track AWP's as listed in Red Book, First Data Bank, and MediSpan for identification of the most profitable reference. Centeon supplies all data banks with consistent AWP information for our product line. In the case of MediSpan, who at the request of a manufacturer, may increase the AWP by a *traditional mark-up factor* of 1.25%. This mark-up is reserved for wholesaler pricing, but may influence other AWP's as well.

Regarding the IGIV market, Centeon does not hold the highest AWP, this is held by Venoglobulin S 5% at \$76.15 per 1 gram. It is important, when analyzing AWP differentials, that you only consider like products, such as 5% solutions should not be compared to 10% and vice versa. A complete AWP listing for both IGIV and coagulation products follow. There are two separate lists; one representing MediSpan and the other Red Book.

All inquiries requesting **specific** reimbursement allowables should be directed to the Reimbursement Answerline for handling.

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ABAWP 000847
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INTRAVENOUS IMMUNE GLOBULIN 1996 MediSpan PRICES

PRODUCT	NDC	UNIT	PRICE
Gammar P.T.V.	00053-7486-01	1.0 gram	\$ 68.00
	00053-7486-02	2.5 gram	\$ 170.00
	00053-7486-05	5.0 gram	\$ 340.00
	00053-7486-10	10.0 gram	\$ 680.00
	00053-7486-06	Bulk Pack	\$ Not on file
Gamimune N-5%	00192-0640-12	.5 gram	\$ 45.60
	00192-0640-20	2.5 gram	\$ 142.80
	00192-0640-71	5.0 gram	\$ 285.60
	00192-0640-25	12.5 gram	\$ 714.00
Gamimune N-10%	00192-0649-12	1.0 gram	\$ 75.00
	00192-0649-20	5.0 gram	\$ 375.00
	00192-0649-71	10.0 gram	\$ 750.00
	00192-0649-24	12.5 gram	\$1500.00
Gammagard SD	00944-2620-01	.5 gram	\$ 54.92
	00944-2620-02	2.5 gram	\$ 156.62
	00944-2620-03	5.0 gram	\$ 317.98
	00944-2620-04	10.0 gram	\$ 640.71
Iveegam	54129-0233-10	1.0 gram	\$ 65.00
	54129-0233-25	2.5 gram	\$ 162.00
	54129-0233-50	5.0 gram	\$ 325.00
Polygam SD	52769-0471-72	2.5 gram	\$ 145.00
	52769-0471-75	5.0 gram	\$ 290.00
	52769-0471-80	10.0 gram	\$ 580.00
Sandoglobulin	00078-0120-58	1.0 gram	\$ Inactive 12/95
	00078-0120-59	3.0 gram	\$ Not on file
	00078-0120-60	6.0 gram	\$ Not on file
Venoglobulin I	49669-1600-01	.5 gram	\$ 37.00
	49669-1602-01	2.5 gram	\$ 152.05
	49669-1603-01	5.0 gram	\$ 304.10
	49669-1604-01	10.0 gram	\$ 608.20*
Venoglobulin S 5%	49669-1612-01	2.5 gram	\$ 190.38
	49669-1613-01	5.0 gram	\$ 380.75
	49669-1614-01	10.0 gram	\$ 761.50
Venoglobulin S 10%	49669-1622-01	5.0 gram	\$ 400.00
	49669-1623-01	10.0 gram	\$ 800.00
	49669-1624-01	20.0 gram	\$1600.00
WinRho SD	60492-0081-01		\$ 103.00*
	60492-0082-01		\$ 235.00*

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**COAGULATION PRODUCTS
1996 MediSpan PRICES**

PRODUCT	NDC NUMBER	AWP (per unit)
AHF-M	52769-0460-01	.83
Hemofil-M	00944-2935-01	.90
Humate P	00053-7605-01	1.30
	00053-7605-02	1.30
	00053-7605-04	1.30
Koate HP	00192-0664-20	.90
	00192-0664-30	.90
	00192-0664-40	.90
	00192-0664-60	.90
Alphanate	49669-4500-01	.70
Monoclote P	00053-7656-01	.90
	00053-7656-02	.90
	00053-7656-04	.90
Profilate OSD	49669-4300-01	.60
	49669-4300-02	.60
AlphaNine SD	49669-3800-01	1.00
	49669-3800-02	Not on file
AlphaNine	49669-3900-01	.85
	49669-3900-02	1.40
Konyne 80	00192-0626-20	.35
	00192-0626-50	.35
Mononine	00053-7668-01	1.10
	00053-7668-02	1.10
	00053-7668-04	1.10
Profilnine	49669-3700-01	.35
	49669-3700-02	.35
Proplex T	00944-0581-01	.25
Autoplex T	00944-0650-01	1.30
Bioclote	00053-8110-01	1.18
	00053-8110-02	1.18
	00053-8110-04	1.18
Feiba VH	54129-0222-04	1.30
Helixate	00053-8120-01	1.18
	00053-8120-02	1.18
	00053-8120-04	1.18
HYATE:C	55688-1060-02	Not on file
Kogenate	00192-0670-20	1.18
	00192-0670-30	1.18
	00192-0670-50	1.18
Recombinate	00944-2938-01	1.18
	00944-2938-02	1.18
	00944-2938-03	1.18
Sumate	00053-2453-00	525.00

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ABAWP 000849
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INTRAVENOUS IMMUNE GLOBULIN 1996 Red Book Drug Topic PRICES

Product	Topic	Quantity	Price
Gamimune N-5%	00053-7486-01	1.0 gram	\$ 68.00
	00053-7486-02	2.5 gram	\$ 170.00
	00053-7486-05	5.0 gram	\$ 340.00
	00053-7486-10	10.0 gram	\$ 680.00
	00053-7486-06	Bulk Pack	\$2040.00
Gamimune N-5%	00192-0640-12	.5 gram	\$ 47.50
	00192-0640-20	2.5 gram	\$ 148.75
	00192-0640-71	5.0 gram	\$ 297.50
	00192-0640-25	12.5 gram	\$ 743.15
Gamimune N-10%	00192-0649-12	1.0 gram	\$ 75.00
	00192-0649-20	5.0 gram	\$ 375.00
	00192-0649-71	10.0 gram	\$ 750.00
	00192-0649-24	12.5 gram	\$1500.00
Gammagard SD	00944-2620-01	.5 gram	\$ 54.92
	00944-2620-02	2.5 gram	\$ 156.62
	00944-2620-03	5.0 gram	\$ 317.98
	00944-2620-04	10.0 gram	\$ 640.71
Iveegam	54129-0233-10	1.0 gram	\$ 49.00
	54129-0233-25	2.5 gram	\$ 122.00
	54129-0233-50	5.0 gram	\$ 244.00
Polygam SD	52769-0471-72	2.5 gram	\$ 145.00
	52769-0471-75	5.0 gram	\$ 290.00
	52769-0471-80	10.0 gram	\$ 580.00
Sandoglobulin	00078-0120-58	1.0 gram	\$ 70.02
	00078-0120-59	3.0 gram	\$ 133.20
	00078-0120-60	6.0 gram	\$ 252.00
Venoglobulin I	49669-1600-01	.5 gram	\$ 37.00
	49669-1602-01	2.5 gram	\$ 152.05
	49669-1603-01	5.0 gram	\$ 304.10
	49669-1604-01	10.0 gram	\$ 608.20*
Venoglobulin S 5%	49669-1612-01	2.5 gram	\$ 190.38
	49669-1613-01	5.0 gram	\$ 380.75
	49669-1614-01	10.0 gram	\$ 761.50
Venoglobulin S 10%	49669-1622-01	5.0 gram	\$ 400.00
	49669-1623-01	10.0 gram	\$ 800.00
	49669-1624-01	20.0 gram	\$1600.00
WinRho SD	60492-0081-01		\$ 103.00*
	60492-0082-01		\$ 235.00*

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ABAWP 000850
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COAGULATION PRODUCTS
1996 Red Book Drug Topics PRICES

PRODUCT	NDC NUMBER	AWP (per iu)
AHF-M	52769-0460-01	.83
Hemofil-M	00944-2935-01	.90
Humate P	00053-7605-01 00053-7605-02 00053-7605-04	1.30
Koate HP	00192-0664-20 00192-0664-30 00192-0664-40 00192-0664-60	1.08
Alphanate	49669-4500-01	.70
Monoclote P	00053-7656-01 00053-7656-02 00053-7656-04	.90
Profilate OSD	49669-4300-01 49669-4300-02	.90
AlphaNine SD	49669-3800-01 49669-3800-02	1.00
AlphaNine	49669-3900-01 49669-3900-02	.80
Konyne 80	00192-0626-20 00192-0626-50	.35
Mononine	00053-7668-01 00053-7668-02 00053-7668-04	1.10
Profilnine	49669-3700-01 49669-3700-02	.35
Proplex T	00944-0581-01	.25
Autoplex T	00944-0650-01	1.30
Bioclote	00053-8110-01 00053-8110-02 00053-8110-04	1.18
Feiba VH	54129-0222-04	1.25
Helixate	00053-8120-01 00053-8120-02 00053-8120-04	1.18
HYATE-C	55688-1060-02	1.61
Kogenate	00192-0670-20 00192-0670-30 00192-0670-50	1.18
Recombinate	00944-2938-01 00944-2938-02 00944-2938-03	1.18
Stimate	00053-2453-00	525.00

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ABAWP 000851
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ABAWP 000852
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Exhibit 62



FOR IMMEDIATE RELEASE

CIV

WEDNESDAY, OCTOBER 3, 2001

(202) 514-2007

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TDD (202) 514-1888

TAP PHARMACEUTICAL PRODUCTS INC.
AND SEVEN OTHERS CHARGED WITH HEALTH CARE CRIMES;
COMPANY AGREES TO PAY \$875 MILLION TO SETTLE CHARGES

Boston, MA... United States Attorney Michael J. Sullivan, Department of Health and Human Services Inspector General Janet Rehnquist, Assistant Inspector General for Investigations and Director of the Department of Defense Criminal Investigation Service Carol Levy, and Special Agent in Charge of the Federal Bureau of Investigation in New England Charles S. Prouty, announced today that:

(1) **TAP Pharmaceutical Products Inc. ("TAP")**, a major American pharmaceutical manufacturer, has agreed to pay \$875,000,000 to resolve criminal charges and civil liabilities in connection with its fraudulent drug pricing and marketing conduct with regard to Lupron, a drug sold by **TAP** primarily for treatment of advanced prostate cancer in men. The global agreement includes:

(a) **TAP** has agreed to plead guilty to a conspiracy to violate the Prescription Drug Marketing Act and to pay a \$290,000,000 criminal fine, the largest criminal fine ever in a health care fraud prosecution. The plea agreement between the United States and **TAP** specifically states that **TAP's** criminal conduct caused losses of \$145,000,000.

(b) **TAP** has agreed to settle its federal civil False Claims Act liabilities and to pay the U.S. Government \$559,483,560 for filing false and fraudulent claims with the Medicare and Medicaid programs as a result of **TAP's** fraudulent drug pricing schemes and sales and marketing misconduct.

(c) **TAP** has agreed to settle its civil liabilities to the fifty states and the District of Columbia and to pay them \$25,516,440 for filing false and fraudulent claims with the states, as a result of **TAP's** drug pricing and marketing misconduct, and from **TAP's** failure to provide the state Medicaid programs **TAP's** best price for those drugs as required by law.

(d) **TAP** has agreed to comply with the terms of a sweeping corporate

integrity agreement which, among other things, significantly changes the manner in which TAP supervises its marketing and sales staff, and ensures that TAP will report to the Medicare and Medicaid programs the true average sale price for drugs reimbursed by those programs.

(2) A federal grand jury returned an indictment unsealed today, charging one physician and six TAP managers with conspiracy to pay kickbacks to doctors and other customers, conspiracy to defraud the state Medicaid programs on TAP's obligation to sell products to those programs at its best price, and conspiracy to violate the Prescription Drug Marketing Act by causing free samples to be illegally billed to the Medicare program. The indictment charges that the TAP defendants offered to give things of value, including free drugs, so-called educational grants, trips to resorts, free consulting services, medical equipment, and forgiveness of debt, to physicians and other customers to obtain their referrals of prescriptions for Lupron to Medicare program beneficiaries, in violation of the anti-kickback statute. The indictment also charges that the TAP defendants aided and abetted, and caused the billings to hundreds of elderly Medicare program beneficiaries and to the Medicare program directly, for thousands of free samples of Lupron, used in the treatment of prostate cancer, in violation of the Prescription Drug Marketing Act.

The seven individuals charged in the indictment unsealed today are:

- (1) **ALAN MACKENZIE**, age 49, of 27068 Wellington Court, Barrington, Illinois, and formerly Vice President of Sales for TAP.
- (2) **JANICE SWIRSKI**, age 40, of 6 Bellingham Drive, Chestnut Hill, Massachusetts, and formerly a National Account Manager with TAP.
- (3) **HENRY VAN MOURICK**, age 43, of 23 Golfwood Court, Roseville, California, and currently a District Manager employed by TAP.
- (4) **DONNA TOM**, age 37, of 141 East 56th Street, New York, New York, and formerly a District Manager employed by TAP.
- (5) **KIMBERLEE CHASE**, age 35, of 108 Dedham Street, Dover, Massachusetts, and formerly a District Manager employed by TAP.
- (6) **DAVID GUIDO**, age 30, of 131 New London Road, Colchester, Connecticut, and currently a Hospital Account Executive employed by TAP.
- (7) **DR. JOHN ROMANO**, age 48, of 110 Long Pond Road, Plymouth, Massachusetts, an urologist with a practice in Plymouth, Massachusetts.

Prior to yesterday's indictment, four other physicians have been charged and have pleaded guilty in this investigation: Dr. Rodney Mannion, a urologist practicing in LaPorte and Michigan City, Indiana, was charged on February 28, 2000 with healthcare fraud. Dr. Mannion pleaded guilty to that charge on April 25, 2000. Dr. Jacob Zamstein, a urologist practicing in Bloomfield, Connecticut, was charged on November 3, 2000 with healthcare fraud and pleaded guilty on December 27, 2000. Dr. Joseph Spinella, a urologist practicing in Bristol, Connecticut, was charged on December 8, 2000 with healthcare fraud and pleaded guilty on March 29, 2001. Dr. Joel Olstein, a urologist practicing in Lewiston, Maine, was charged on April 11, 2001 with healthcare fraud and pleaded guilty on July 18, 2001.

Lupron is marketed by TAP primarily for the treatment of prostate cancer. Lupron is identical in effectiveness to the drug Zolodex, produced by a competitor, which was also available for prescription in the 1990s. While Medicare does not pay for most drugs needed by Medicare beneficiaries, Medicare does cover drugs, such as Lupron, that must be injected under the supervision of a physician. Medicare paid for 80% of either the urologist's charge for Lupron or the average wholesale price reported by TAP, whichever was lower, and the patient was responsible for the remaining 20% as a copayment.

As part of its civil allegations, the Government alleged that throughout the 1990s, TAP set and controlled the price at which the Medicare program reimbursed physicians for the prescription of Lupron by reporting its average wholesale price ("AWP"). The AWP reported by TAP was significantly higher than the average sales price TAP offered physicians and other customers for the drug. The Government alleged that TAP marketed the spread between its discounted prices paid by physicians and the significantly higher Medicare reimbursement based on AWP as an inducement to physicians to obtain their Lupron business. The Government further alleged that TAP concealed the true discounted prices paid by physicians from Medicare, and falsely advised physicians to report the higher AWP rather than their real discounted price for the drug. The Government further alleged that TAP set its AWP of Lupron at levels far higher than the price for which wholesalers or distributors actually sold the drug, resulting in falsely inflated prices that were neither the physician's actual cost nor the true wholesaler's average price.

"The Medicare and Medicaid drug programs are bulwarks against the financial hardship that can be caused by the need for life-saving medical treatments," said Robert D. McCallum, Jr., Assistant Attorney General for the Justice Department's Civil Division. "These programs cannot afford abuses that enrich doctors or drug companies at the expense of taxpayers and patients. This settlement agreement and the compliance steps that TAP has agreed to take will reinforce the government's long-standing objective of paying Medicare and Medicaid providers for the reasonable costs of the drugs they administer."

"The urologists and the TAP employees who knowingly participated in this broad conspiracy took advantage of older Americans suffering from prostate cancer. The indictment unsealed today alleges that TAP employees sought to influence the doctors' decisions about what drug to prescribe to patients by giving them kickbacks and bribes, from free samples to free consulting services to expensive trips to golf and ski resorts to so-called educational grants," said U.S. Attorney Sullivan. "In all instances where the kickbacks worked to ensure the prescription of TAP's product Lupron, the Medicare Program and the elderly Americans suffering from prostate cancer paid more for their care than if the doctor had prescribed the competitor's product."

"Medicare beneficiaries and all American patients need to get the right pharmaceuticals, based on medical criteria, and at a fair price. This is crucial both to ensure good quality health care and to use our resources effectively. Today's settlement is a clear message that the federal government will protect the best interests of beneficiaries and taxpayers," said HHS Secretary Tommy G. Thompson.

"This prosecution has resulted in the largest criminal and civil recoveries in any health care fraud case in the country. The fraud schemes used by TAP Pharmaceuticals and others impacts significantly on

the integrity of TRICARE, the Department of Defense's healthcare system," stated DCIS Special Agent in Charge Edward Bradley. "Healthcare fraud increases patients' costs and negatively effects the delivery of health care services to over 8 million military members, retirees, and their dependents."

The indictment unsealed today against the seven individuals alleges that inducements to physicians included free products; free consulting services; trips to expensive golf and ski resorts; money disguised as "educational grants," but in fact was used and intended to be used for many purposes, including cocktail party bar tabs, office Christmas parties, medical equipment, travel expenses for urologists and their staff to attend conferences; and discounts on Lupron sold to treat endometriosis in women to effect a lower price on Lupron used in the treatment of men with prostate cancer.

The investigation commenced in the District of Massachusetts in 1997 after a urologist employed by Tufts Associated Health Maintenance Organization ("Tufts HMO") in Waltham, Dr. Joseph Gerstein, reported to law enforcement authorities that he had been offered an educational grant if he would reverse a decision he had made on behalf of Tufts that it would only cover the less expensive drug Zoladex. As charged in the indictment, **SWIRSKI** and **CHASE** met with Dr. Gerstein after he began working with the FBI and the Office of Inspector General, and during those meetings, offered him \$65,000 in educational grants that he could use for any purpose "whatever," together with discounts on other products, if he would reverse Tufts' decision not to include Lupron on its formulary for treating patients that it insured who were suffering from prostate cancer. The investigation was also triggered by a civil False Claims Act suit filed in 1996 by Douglas Durand, after he had quit his employment at TAP as Vice President of Sales, after just one year because of his concerns about the illegal marketing conduct of some of TAP's employees.

The civil False Claims Act provides that where persons submit, cause others to submit, or conspire to submit, false or fraudulent claims to the United States Government, including its federal health care programs, the Government is entitled to recover treble damages and \$5,500 to \$11,000 for each false or fraudulent claim submitted. Private individuals, like Dr. Gerstein and Douglas Durand, are allowed to file whistleblower suits under the False Claims Act to bring the government information about wrongdoing, and if the government is successful in resolving or litigating their claims, to share in the recovery by receiving generally 15% to 25% of the amount recovered. As a part of today's resolution, those two individuals together with Tufts Associated HMO will share as whistleblowers, pursuant to the Congressional directive in the False Claims Act, 17% of the civil recovery, or an amount of approximately \$95 million.

"The payment by TAP of nearly \$900 million including the highest criminal fine ever imposed on any health care company, and the indictment of the six TAP employees sends a very strong signal to the pharmaceutical industry that it best police its employees' conduct and deal strongly with those who would gain sales at the expense of the health care programs for the poor and the elderly and the persons insured by those programs," said U.S. Attorney Sullivan.

As part of a condition for doing business in the future with providers who are members of the Medicare and Medicaid programs, TAP agreed to

enter into an extensive Corporate Integrity Agreement. That agreement provides for significant training of TAP's sales and marketing employees and changes in supervision and controls. It also requires TAP to report to the Medicare and Medicaid programs accurate pricing information showing TAP's true average sales price.

"In recent years, the pharmaceutical industry has come under increasing scrutiny for its pricing, sales, and marketing practices. The OIG, together with other government agencies, will use all available enforcement authorities, where appropriate, to address these practices," said HHS Inspector General Janet Rehnquist.

The entire amount of the \$290 million criminal fine paid by TAP will go to the Department of Justice's Crime Victims Fund. The Fund was established in 1984 by the Victims of Crime Act ("VOCA") and serves as a major funding source for victim services throughout the country. Each year, millions of dollars are deposited into this fund from criminal fines, forfeited bail bonds, penalty fees, and special assessments collected by U.S. Attorney's Offices, U.S. Courts, and the Bureau of Prisons. State assistance programs use VOCA funds to provide or contract for services to victims of rape, drunk driving, child abuse, domestic violence, homicide, and other crimes. Victims of federal, as well as state crimes, are eligible to receive VOCA-funded services.

The investigation is continuing.

The investigation has been conducted by the agents from the Federal Bureau of Investigation, the Office of Investigations for the Office of Inspector General for the Department of Health and Human Services, the Food and Drug Administration's Office of Criminal Investigations and the Department of Defense's Defense Criminal Investigation Service. On the criminal side, the investigation and prosecution are being handled by Assistant U.S. Attorney Michael K. Loucks, Health Care Fraud Chief. On the civil side, the investigation and prosecution are being handled by Assistant U.S. Attorney Susan Winkler, assisted by Department of Justice Trial Attorney T. Reed Stephens. The Corporate Integrity Agreement was negotiated by Office of General Counsel, Office of Inspector General Assistant Counsel Mary Riordan.

Press Contact: Samantha Martin, (617) 748-3139

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Exhibit 63



TAP PHARMACEUTICALS INC.

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675 North Field Drive
Lake Forest, IL 60045

May 15, 2006

State Pharmacy Manager
Department of Public Health
and Human Services
1400 Broadway, P.O. Box 202951
Helena, MT 59620

RECEIVED
MAY 19 2006
HEALTH RESOURCES
DIVISION

Re: ASP Reporting Under TAP's Corporate Integrity Agreement

Dear State Pharmacy Manger,

For the past several years, TAP has been submitting reports to you that reflect TAP's average sales price ("ASP") for each of its products by NDC code. These reports are submitted pursuant to TAP's Corporate Integrity Agreement, dated September 28, 2001.

During the testing of a new computer system used by TAP to calculate ASP starting in the third quarter of 2005, TAP discovered three types of errors in the way that TAP calculated the ASP in the prior quarters. They are as follows,

1. Government chargeback sales should be excluded from the ASP calculation at WAC amount, less prompt pay discounts and other applicable fees. In the old system, the other applicable fees were manually calculated and mistakenly added to the WAC amount.
2. Administration fees were mistakenly included in the sums of rebates for the most recent 12-month period, which were used to calculate the 12-month rolling average price concession percentages and to determine the rebate estimates for the quarter.
3. For the first quarter of 2005, the ASP calculations of two products (NDC 0300-3663-01 and 0300-3683-01) received incorrect allocation of additional discounts.

In addition, TAP has identified two errors that affect its submissions for the first three quarters of 2005. The errors were as follows,

4. In excluding the TRICARE sales from ASP calculation, TAP used the prompt pay discount percentage related to the reporting quarter rather than the quarter when they are invoiced.
5. TAP excluded the discount from Cash Card programs in the sums of rebates for the most recent 12-month period, which were used to calculate the 12-month rolling average price concession percentages and to determine the rebate estimates for the quarter.

MT 037947



TAP PHARMACEUTICALS INC.

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675 North Field Drive
Lake Forest, IL 60045

The combined affects of these five miscalculations produced reported ASPs that were lower than (understatement) as well as higher than (overstatement) the actual ASPs. These variances ranged from an understatement of 1.29% to an overstatement of 0.61% with an average of a 0.15% understatement. The exception is one product in the first quarter of 2005 (NDC 00300-1541-11), the reported ASP was \$323.23, which understated the actual ASP by 5.26%.

The last error was found in the fourth quarter of 2005, which was as follows:

6. Some chargeback transactions that are excluded from the ASP calculation were not accounted for. The effects of this miscalculation produced reported ASPs in fourth quarter of 2005 that were higher than (overstatement) the actual ASPs. The variances ranged from 0.01% to 0.95% with an average of 0.17%. The exception is one product (NDC 0300-3954-25), the reported ASP was (\$1.16), which understated the actual ASP of (\$1.65) by -29.70%.

We very much regret these errors but can assure you that TAP has taken appropriate measures by incorporating the corrected formulation and automating them in our new system and also activating data verification systems to ensure that we do not make these errors in subsequent reports.

Very truly yours,

A handwritten signature in cursive script, reading 'Glenn Weiglein'.

Glenn Weiglein
Director, Contracts and Pricing

MT 037948

TAP Pharmaceutical Products Inc.
Average Sale Price Report
Year 2004 Qtr 1 Restatement

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NDC	Product	Average Sale Price
00300-1541-19	PREVACID 15MG 1000CT	\$3,380.39
00300-1541-30	PREVACID 15MG 30CT	\$86.49
00300-3046-19	PREVACID 30MG 1000CT	\$3,395.47
00300-3346-01	LUPRON DEPOT 3-MONTH, 22.5MG	\$734.37
00300-3612-28	LUPRON 2 WEEK 2.8ML	\$366.27

MT 037949

TAP Pharmaceutical Products Inc.
Average Sale Price Report
 Year 2004 Qtr 2 Restatement

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Page: 1

NDC	Product	Average Sale Price
00300-1541-11	PREVACID 15MG HUD	\$324.96
00300-1541-19	PREVACID 15MG 1000CT	\$3,218.69
00300-2108-01	LUPRON DEPOT 7.5MG PED	\$509.66
00300-2282-01	LUPRON DEPOT 11.25MG PED	\$926.02
00300-3046-11	PREVACID 30MG HUD	\$355.24
00300-3046-13	PREVACID 30MG 100CT	\$309.52
00300-3046-19	PREVACID 30MG 1000CT	\$3,460.78
00300-3346-01	LURPON DEPOT 3-MONTH, 22.5MG	\$694.23
00300-3612-24	LUPRON 6 PACK 2.8ML	\$363.27
00300-3641-01	LUPRON DEPOT 3.75MG	\$419.71
00300-3642-01	LUPRON DEPOT 7.5MG	\$297.73
00300-3663-01	LUPRON DEPOT 3-MONTH, 11.25MG	\$1,206.03
00300-3683-01	LUPRON DEPOT 4-MONTH, 30MG	\$710.02
00300-7311-30	PREVACID ORAL SUSP 30MG DELAYED RELEASE ORAL SUSP	\$103.03

MT 037950

CONFIDENTIAL

Page: 1

TAP Pharmaceutical Products Inc.
Average Sale Price Report
 Year 2004 Qtr 3 Restatement

NDC	Product	Average Sale Price
00300-1541-11	PREVACID 15MG HUD	\$324.18
00300-1541-19	PREVACID 15MG 1000CT	\$3,152.54
00300-1543-30	PREVACID SOLUTAB 15MG 30 CT	\$19.27
00300-1544-30	PREVACID SOLUTAB 30MG 30 CT	\$45.98
00300-2108-01	LUPRON DEPOT 7.5MG PED	\$523.48
00300-2282-01	LUPRON DEPOT 11.25MG PED	\$951.62
00300-2440-01	LUPRON DEPOT 15MG PED	\$1,054.24
00300-3046-11	PREVACID 30MG HUD	\$364.04
00300-3046-13	PREVACID 30MG 100CT	\$313.66
00300-3046-19	PREVACID 30MG 1000CT	\$3,482.49
00300-3346-01	LUPRON DEPOT 3-MONTH, 22.5MG	\$667.73
00300-3641-01	LUPRON DEPOT 3.75MG	\$431.22
00300-3642-01	LUPRON DEPOT 7.5MG	\$269.64
00300-3663-01	LUPRON DEPOT 3-MONTH, 11.25MG	\$1,225.35
00300-3683-01	LUPRON DEPOT 4-MONTH, 30MG	\$730.52
00300-7309-30	PREVACID ORAL SUSP 15MG DELAYED RELEASE	\$107.37
	ORAL SUSP	
00300-7311-30	PREVACID ORAL SUSP 30MG DELAYED RELEASE	\$107.31
	ORAL SUSP	

MT 037951

TAP Pharmaceutical Products, Inc.	00300154111	\$405.14	(1,412)
TAP Pharmaceutical Products, Inc.	00300154119	\$3,307.16	3,701
TAP Pharmaceutical Products, Inc.	00300154130	\$96.86	266,611
TAP Pharmaceutical Products, Inc.	00300154530	\$99.37	129,491
TAP Pharmaceutical Products, Inc.	00300154630	\$99.45	431,598
TAP Pharmaceutical Products, Inc.	00300210801	\$533.00	4,507
TAP Pharmaceutical Products, Inc.	00300228201	\$958.96	6,942
TAP Pharmaceutical Products, Inc.	00300244001	\$1,064.90	7,426
TAP Pharmaceutical Products, Inc.	00300304611	\$441.56	(5,241)
TAP Pharmaceutical Products, Inc.	00300304613	\$332.91	1,020,328
TAP Pharmaceutical Products, Inc.	00300304619	\$3,368.61	45,263
TAP Pharmaceutical Products, Inc.	00300334601	\$549.93	48,576
TAP Pharmaceutical Products, Inc.	00300361224	\$373.79	398
TAP Pharmaceutical Products, Inc.	00300361228	\$369.72	5,024
TAP Pharmaceutical Products, Inc.	00300364101	\$422.73	53,969
TAP Pharmaceutical Products, Inc.	00300364201	\$247.58	47,168
TAP Pharmaceutical Products, Inc.	00300366301	\$1,199.93	11,733
TAP Pharmaceutical Products, Inc.	00300368301	\$702.93	91,262
TAP Pharmaceutical Products, Inc.	00300370201	\$234.07	87,607
TAP Pharmaceutical Products, Inc.	00300730930	\$108.70	26,067
TAP Pharmaceutical Products, Inc.	00300731130	\$111.34	41,500

MT 037952

TAP Pharmaceutical Products, Inc.	00300154111	\$341.16	675
TAP Pharmaceutical Products, Inc.	00300154119	\$3,320.95	3,588
TAP Pharmaceutical Products, Inc.	00300154130	\$98.16	383,086
TAP Pharmaceutical Products, Inc.	00300154330	\$78.06	113,506
TAP Pharmaceutical Products, Inc.	00300154430	\$70.63	324,204
TAP Pharmaceutical Products, Inc.	00300154530	\$55.64	865
TAP Pharmaceutical Products, Inc.	00300154630	\$73.27	7,111
TAP Pharmaceutical Products, Inc.	00300210801	\$532.56	5,009
TAP Pharmaceutical Products, Inc.	00300228201	\$961.73	6,284
TAP Pharmaceutical Products, Inc.	00300244001	\$1,062.15	7,311
TAP Pharmaceutical Products, Inc.	00300304611	\$377.44	32,541
TAP Pharmaceutical Products, Inc.	00300304613	\$334.99	1,554,370
TAP Pharmaceutical Products, Inc.	00300304619	\$3,406.46	46,949
TAP Pharmaceutical Products, Inc.	00300334601	\$642.11	60,208
TAP Pharmaceutical Products, Inc.	00300361224	\$373.91	837
TAP Pharmaceutical Products, Inc.	00300361228	\$369.89	4,153
TAP Pharmaceutical Products, Inc.	00300364101	\$422.30	45,362
TAP Pharmaceutical Products, Inc.	00300364201	\$251.03	51,629
TAP Pharmaceutical Products, Inc.	00300366301	\$1,165.98	8,515
TAP Pharmaceutical Products, Inc.	00300368301	\$695.01	94,644
TAP Pharmaceutical Products, Inc.	00300370201	\$232.21	124,114
TAP Pharmaceutical Products, Inc.	00300395425	\$7.67	627,794
TAP Pharmaceutical Products, Inc.	00300730930	\$109.55	37,128
TAP Pharmaceutical Products, Inc.	00300731130	\$111.65	22,941

MT 037953

TAP Pharmaceutical Products, Inc.	00300154111	\$370.89	5,549
TAP Pharmaceutical Products, Inc.	00300154119	\$3,237.95	5,409
TAP Pharmaceutical Products, Inc.	00300154130	\$95.18	312,095
TAP Pharmaceutical Products, Inc.	00300154330	\$72.63	107,742
TAP Pharmaceutical Products, Inc.	00300154430	\$70.06	372,194
TAP Pharmaceutical Products, Inc.	00300154530	\$106.45	2,940
TAP Pharmaceutical Products, Inc.	00300154630	\$106.20	11,024
TAP Pharmaceutical Products, Inc.	00300228201	\$962.30	7,078
TAP Pharmaceutical Products, Inc.	00300304611	\$379.72	44,443
TAP Pharmaceutical Products, Inc.	00300304613	\$329.20	1,525,159
TAP Pharmaceutical Products, Inc.	00300304619	\$3,391.05	79,770
TAP Pharmaceutical Products, Inc.	00300364101	\$424.82	53,393
TAP Pharmaceutical Products, Inc.	00300366301	\$1,196.91	12,752
TAP Pharmaceutical Products, Inc.	00300370201	\$231.16	104,764
TAP Pharmaceutical Products, Inc.	00300730930	\$109.13	43,528
TAP Pharmaceutical Products, Inc.	00300731130	\$112.23	35,381

MT 037954

TAP Pharmaceutical Products, Inc.	00300154111	\$289.45	2,117
TAP Pharmaceutical Products, Inc.	00300154119	\$3,175.99	4,248
TAP Pharmaceutical Products, Inc.	00300154130	\$95.30	221,852
TAP Pharmaceutical Products, Inc.	00300154430	\$70.18	438,583
TAP Pharmaceutical Products, Inc.	00300154530	\$109.11	9,261
TAP Pharmaceutical Products, Inc.	00300154630	\$108.70	26,910
TAP Pharmaceutical Products, Inc.	00300210801	\$539.91	4,603
TAP Pharmaceutical Products, Inc.	00300228201	\$979.02	7,109
TAP Pharmaceutical Products, Inc.	00300244001	\$1,081.96	8,459
TAP Pharmaceutical Products, Inc.	00300304611	\$212.26	10,942
TAP Pharmaceutical Products, Inc.	00300304613	\$336.15	1,330,270
TAP Pharmaceutical Products, Inc.	00300304619	\$3,366.18	54,206
TAP Pharmaceutical Products, Inc.	00300361224	\$379.31	820
TAP Pharmaceutical Products, Inc.	00300364101	\$431.58	51,824
TAP Pharmaceutical Products, Inc.	00300368301	\$1,197.25	11,526
TAP Pharmaceutical Products, Inc.	00300368301	\$701.93	85,957
TAP Pharmaceutical Products, Inc.	00300730830	\$112.36	33,804
TAP Pharmaceutical Products, Inc.	00300731130	\$114.02	25,117

MT 037955

TAP Pharmaceutical Products, Inc.	00300154111	\$223.54	2,117
TAP Pharmaceutical Products, Inc.	00300154119	\$3,134.84	4,248
TAP Pharmaceutical Products, Inc.	00300154130	\$92.85	221,852
TAP Pharmaceutical Products, Inc.	00300154330	\$74.27	127,696
TAP Pharmaceutical Products, Inc.	00300154430	\$70.16	438,583
TAP Pharmaceutical Products, Inc.	00300228201	\$988.98	7,109
TAP Pharmaceutical Products, Inc.	00300244001	\$1,090.44	8,459
TAP Pharmaceutical Products, Inc.	00300304611	\$331.36	10,942
TAP Pharmaceutical Products, Inc.	00300304613	\$328.91	1,330,270
TAP Pharmaceutical Products, Inc.	00300304619	\$3,356.49	54,205
TAP Pharmaceutical Products, Inc.	00300334601	\$669.56	57,312
TAP Pharmaceutical Products, Inc.	00300364101	\$435.40	51,824
TAP Pharmaceutical Products, Inc.	00300364201	\$271.67	50,011
TAP Pharmaceutical Products, Inc.	00300366301	\$1,217.04	11,526
TAP Pharmaceutical Products, Inc.	00300368301	\$729.89	85,957
TAP Pharmaceutical Products, Inc.	00300395425	(\$1.65)	274,470
TAP Pharmaceutical Products, Inc.	00300731130	\$113.71	25,117

MT 037956

Exhibit 64

John Chappuis

HIGHLY CONFIDENTIAL
Helena, MT

April 21, 2006

1

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

---oOo---

ORIGINAL

In re: PHARMACEUTICAL,

MDL DOCKET NO.

INDUSTRY AVERAGE WHOLESALE

CIVIL ACTION

PRICE LITIGATION

01CV12257-PBS

THIS DOCUMENT RELATES TO:

ALL ACTIONS

HIGHLY CONFIDENTIAL

DEPOSITION OF JOHN CHAPPUIS

Taken at:

Law offices of

Gough, Shanahan, Johnson & Waterman

33 South Last Chance Gulch

Helena, Montana

April 21, 2006

8:50 a.m.

Henderson Legal Services
(202) 220-4158

John Chappuis

HIGHLY CONFIDENTIAL
Helena, MT

April 21, 2006

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1 digit growth, so it was one of the drivers in terms of
2 growth and overall cost.

3 MS. SMITH-KLOCEK: At this time if the
4 minutes from the health coalition meetings have not
5 already been produced, I would ask that they be
6 produced.

7 MS. BOVINGDON: I have written that down
8 already, and we'll look for them.

9 MS. SMITH-KLOCEK: Thank you.

10 MS. BOVINGDON: Yes.

11 Q. (By Ms. Smith-Klocek) Have you had
12 communications with non-Medicaid agencies related to
13 pharmacy issues?

14 A. I can't recall any personal discussions
15 that I participated in with non-Medicaid agencies.

16 Q. Do you recall having any communications
17 with, for example, the bureau of prisons or employee
18 benefits or the state institutions regarding
19 prescription drug coverage?

20 A. I have heard concerns expressed in
21 relation to one of our contracts at the state
22 institutions. We use the McKesson Corporation for

John Chappuis

HIGHLY CONFIDENTIAL
Helena, MT

April 21, 2006

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1 otherwise?

2 A. It would be helpful if you would reflect
3 them as the Department of Corrections.

4 Q. I'm sorry, with the Department of
5 Corrections.

6 A. And the answer is: I cannot recall any
7 other conversations or any conversations that dealt
8 with that issue.

9 Q. I'd like to discuss your role in changes
10 to the Medicaid drug reimbursement rates for
11 pharmaceutical drugs. In 1997, did you have any role
12 in changes to the reimbursement rate for outpatient
13 drugs under the Montana Medicaid program?

14 A. I cannot remember being part of any
15 discussion related to that. My only role would have
16 been in monitoring the budget with pharmacy at that
17 time.

18 Q. In your role of monitoring the budget,
19 would you have participated or attended any public
20 hearings regarding rule changes to reimbursement rates
21 for pharmaceutical drugs?

22 A. Not that I can recall.

Henderson Legal Services
(202) 220-4158

John Chappuis

HIGHLY CONFIDENTIAL
Helena, MT

April 21, 2006

85

1 Federal Government that relate to AWP.

2 As I recall, and I did review this document
3 again as I mentioned, the options were somewhere
4 between 10 and 21-point-something percent. Jeff felt
5 that 15 percent was the best way to go because those
6 ranges were between 10 percent and 21-something
7 percent nationally. He felt in Montana, it was his
8 judgment to start with the 15 percent.

9 So we made a decision and discussed that with
10 our director, Gail Gray, and then went forward, or at
11 least we would have eventually discussed it with Gail
12 Gray and then with the budget office. So we made that
13 recommendation. The budget office is OBPP, that I
14 mentioned earlier, Office of Budget and program
15 Planning.

16 Q. Was the reason for the change from AWP
17 minus 10 -- I'm sorry. Was the reason for the change
18 in reimbursement primarily to reduce costs to the
19 budget?

20 A. I'm not sure of Jeff's reasoning on that.
21 Certainly, I was looking for options to reduce costs,
22 but legitimately, not just so reduce costs. Anytime

Exhibit 65

Nancy Ellery

April 11, 2006

Port St. Lucie, FL

1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

-----x
IN RE: PHARMACEUTICAL INDUSTRY)
AVERAGE WHOLESALE PRICE LITIGATION,) MDL DOCKET NO.
-----x CIVIL ACTION
THIS DOCUMENT RELATES TO:) 01CV12257-PBS
ALL ACTIONS)
-----x

DEPOSITION OF NANCY ELLERY

April 11, 2006

9:14 a.m.

Held at:

Hampton Inn & Suites

155 Southwest Peacock Boulevard

Port St. Lucie, Florida

Reporter: Tamra K. Piderit, RPR, CRR

Henderson Legal Services
(202) 220-4158

Nancy Ellery

Port St. Lucie, FL

April 11, 2006

Page 70

1 Q. Do you remember a discussion of the bulk
2 purchase of prescription drugs?

3 A. No, I don't recall.

4 Q. Do you remember a discussion of adequate
5 reimbursement for accessibility to pharmacists?

6 MR. GAUDET: Objection.

7 A. No, I don't remember specific discussion.
8 Again, I don't know which group I participated in. I
9 just remember having the groups and there being
10 minutes reflected, but I don't remember specific
11 discussions.

12 MR. EVERETT: Let's take a short break
13 here.

14 THE WITNESS: Okay. Fine.

15 (Recess taken from 10:54 a.m. to
16 11:00 a.m.)

17 BY MR. EVERETT:

18 Q. Ms. Ellery, when you were the director of
19 the Montana Medicaid program, is it fair to say that
20 you were aware of the reimbursement rates that other
21 states used for their Medicaid programs?

22 A. Not specifically.

Nancy Ellery

Port St. Lucie, FL

April 11, 2006

Page 71

1 Q. Is that information something that you
2 would have considered in setting reimbursement rates
3 for Montana Medicaid?

4 A. That is a factor.

5 Q. Did you do anything to keep up with
6 changes that other states made in their
7 reimbursement systems?

8 A. I attended meetings, as I mentioned
9 earlier, with other Medicaid directors. They would
10 talk about what they were doing; it was information
11 sharing among directors.

12 Q. Other than the biannual meetings of the
13 association of Medicaid directors, did you have
14 communications regarding reimbursement rates that
15 other states' Medicaid programs used?

16 A. For prescription medicine or Medicaid
17 rates in general?

18 Q. Let me ask the general question first.

19 A. Yeah. We would sometimes in trying to
20 evaluate whether our reimbursement was equitable, we
21 would survey other states. Not me particularly
22 survey them, but staff would find out what other

Exhibit 66

Coleen Lawrence

Carson City, NV

August 16, 2005

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1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MASSACHUSETTS

3 -o0o-

4 In Re: Pharmaceutical Industry

5 Average Wholesale

6 Price Litigation

CERTIFIED COPY

8 MDL No. 1456

9 Civil Action No.

10 This Document Relates to State of 01-CV-12257-PBS

11 Nevada v. Abbott Laboratories, et al.,

12 and CA No. 02-CV-00260-ECR (Nevada I)

13 State of Nevada v. American Home

14 Products, et al., CA No. 02-CV-12086-PBS (Nevada II)

15

16

17 VOLUME 2 OF THE DEPOSITION OF

18 COLEEN LAWRENCE

19 August 16, 2005

20 Carson City, Nevada

21

22 REPORTED BY: DEBORAH MIDDLETON GRECO, CCR #113, RDR, CRR

HENDERSON LEGAL SERVICES
(202) 220 - 4158

Coleen Lawrence

August 16, 2005

Carson City, NV

256

1 contract would be.

2 Record read by the reporter as follows:

3 "QUESTION: Does the state have any contracts with any
4 pharmacy or other providers that refer or relate to AWP?"

5 MS. BRECKENRIDGE: Objection.

6 THE WITNESS: I'm still unclear as to what the
7 contract would be. You say relate to AWP.

8 BY MR. DOVE:

9 Q For example, does the state have a contract with, you
10 know, PBM Express Scripts or PBM that refers in the context
11 itself to the term AWP?

12 MR. TERRY: You're asking for the state in its
13 entirety or for the Medicaid program?

14 MR. DOVE: For the Medicaid program.

15 MS. BRECKENRIDGE: Objection.

16 THE WITNESS: Not that I'm aware of.

17 BY MR. DOVE:

18 Q I'd like to mark as Exhibit Lawrence 015 a collection
19 of documents that appears to relate to a state plan amendment
20 pertaining to a change in dispensing fee.

21 (Exhibit Lawrence 015 marked for identification)

22 BY MR. DOVE:

Exhibit 67

Coleen Lawrence, Vol. III

March 23, 2006

Carson City, NV

391

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

-000-

In Re: PHARMACEUTICAL

INDUSTRY AVERAGE WHOLESALE

PRICE LITIGATION

MDL DOCKET NO.

THIS DOCUMENT RELATES TO: CIVIL ACTION

Abbott Laboratories, et al., 01CV12257-PBS

CA No. 02-CV-00260-ECR

(Nevada I) and State of

Nevada V American Home

Products, et al., CA No.

02-CV-12086-PBS (Nevada II)

VOLUME III

DEPOSITION OF

COLEEN LAWRENCE

March 23, 2006

Carson City, Nevada

REPORTED BY: JACKIE ADAMS CA CSR 7455; NV CSR 278; RPR

COMPUTER-ASSISTED TRANSCRIPTION BY: caseCATalyst 4

Henderson Legal Services
(202) 220-4158

Coleen Lawrence, Vol. III

March 23, 2006

Carson City, NV

15 (Pages 444 to 447)

444

1 reimbursement?

2 A. Other agencies outside of Medicaid?

3 Q. Yes.

4 A. Nevada checkup does because they use our

5 same policies. Other than that, I do not know.

6 Q. Do you have any information about the use

7 of AWP by other entities in the state of Nevada,

8 such as insurance companies?

9 A. No.

10 Q. Directing your attention back to paragraph

11 four of the Complaint of Exhibit Lawrence V3 001,

12 are you aware of any documents in the State's

13 possession to support that allegation?

14 MS. BRECKENRIDGE: Which allegation? I'm

15 sorry.

16 MR. LITOW: Four.

17 MS. BRECKENRIDGE: Paragraph four?

18 MR. LITOW: Yes.

19 MS. BRECKENRIDGE: Objection, she's

20 already told you she doesn't have any information.

21 THE WITNESS: You want to know if I have

22 information.--

445

1 BY MR. LITOW:

2 Q. Are you aware of any documents that would

3 support that allegation?

4 A. The allegation that --

5 Q. Okay, let's take it piece by piece then.

6 It looks like there's several here. First one, AWP's

7 are not independently determined by the publishers;

8 do you see that?

9 A. Yes.

10 Q. Are you aware of any documents in the

11 State's possession to support that allegation?

12 MS. BRECKENRIDGE: Objection.

13 THE WITNESS: I am not aware of any.

14 BY MR. LITOW:

15 Q. And then it goes on:

16 Rather, as part of the AWP inflation

17 scheme described in this Amended Complaint,

18 pharmaceutical companies self-report the AWP to

19 publishers who then publish the purported AWP

20 exactly as provided to them by the pharmaceutical

21 manufacturers.

22 Are you aware of any documents in the

446

1 State's possession to support that allegation?

2 MS. BRECKENRIDGE: Objection.

3 THE WITNESS: Not to my knowledge.

4 BY MR. LITOW:

5 Q. Do you have an opinion one way or the

6 other whether the allegations in that paragraph are

7 correct?

8 MS. BRECKENRIDGE: Objection.

9 THE WITNESS: I have no opinion.

10 BY MR. LITOW:

11 Q. I'd like to direct your attention to

12 paragraph seven of the Complaint. It's on page two.

13 And that reads:

14 In some cases, as an integral part of the

15 scheme, utilized charge-backs, credits, rebates,

16 hidden price discounts and/or other unlawful

17 financial inducements, including free samples, that

18 are not included in the AWP's reported by defendants,

19 which consequently further reduce the provider's

20 cost while increase the provider's spread and their

21 incentive to prescribe a particular defendant's

22 products.

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1 Do you see that?

2 A. Yes.

3 Q. Are you aware of any documents in the

4 State's possession to support that allegation?

5 A. I guess I need further clarification on

6 the allegation. It doesn't say who is -- are we

7 saying the manufacturers are utilizing the charge-

8 backs?

9 Q. Yes.

10 A. Okay. And is it that they are utilizing

11 credits, rebates -- I mean --

12 MS. BRECKENRIDGE: There's lot there.

13 BY MR. LITOW:

14 Q. Any of those.

15 MS. BRECKENRIDGE: Objection.

16 BY MR. LITOW:

17 Q. Are you aware of any documents to support

18 the allegation that defendants utilize charge-backs?

19 A. No, not to my knowledge.

20 Q. Are you aware of any documents to support

21 the allegation that defendants utilize credits?

22 A. Not to my knowledge.

Exhibit 68

Laurie Squartsoff

March 6, 2006

Washington, DC

1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MASSACHUSETTS

----- x
IN RE: PHARMACEUTICAL INDUSTRY : MDL DOCKET NO.
AVERAGE WHOLESALE PRICE : CIVIL ACTION
LITIGATION : 01CV12257-PBS

----- :
THIS DOCUMENT RELATES TO :
ALL ACTIONS :

----- X
Monday, March 6, 2006

Washington, D.C.

Deposition of LAURIE SQUARTSOFF, commencing at
8:07 a.m., held at the offices of Covington &
Burling, 1201 Pennsylvania Avenue, N.W., Washington,
D.C., before Keith Wilkerson, a notary public in and
for the District of Columbia.

Henderson Legal Services
(202) 220-4158

Laurie Squartsoff

March 6, 2006

Washington, DC

<p style="text-align: right;">114</p> <p>1 A. That would have been the Minnesota 2 Multistate Buying Group. 3 Q. And what was the nature of those 4 discussions? 5 A. Well, there were conversations about ways 6 to save costs, and an idea that was talked about 7 included utilizing the state pharmacies to dispense 8 medications to the Medicaid recipients. That was a 9 long time ago. 10 Q. This idea about using the Minnesota state 11 buying cooperative, this idea was a long time ago? 12 I'm not sure I understand. 13 A. I don't remember exactly when I had that 14 conversation with April, but it would have been a 15 long time ago. 16 Q. In the early 1990s or -- 17 A. It could have been. 18 Q. And I guess I'm not completely clear. 19 Maybe you could tell me again. What was the idea 20 that you were discussing? What was the proposal on 21 the table? 22 MS. BRECKENRIDGE: Objection.</p>	<p style="text-align: right;">116</p> <p>1 Q. And why not? 2 A. I don't recall exactly, but it may likely 3 have been due to resources within the state 4 hospital, they only had a few pharmacists, and the 5 restrictions from the buying group on who the 6 participating pharmacies could be. 7 Q. Did you ever speak about prescription drug 8 purchasing or reimbursement with anyone at 9 Corrections during your time at Nevada Medicaid? 10 A. I may have. I don't recall any direct 11 conversations with anyone at Corrections. It would 12 have been with Elliott King, who was the director of 13 pharmacy. 14 Q. Did you have discussions with Elliott King 15 about prescription drug purchasing generally, even 16 if that's outside of your specific tasks at Nevada 17 Medicaid? 18 A. I don't recall that. I was only at 19 Corrections maybe twice in the pharmacy ever, so I 20 don't recall the particulars of those conversations 21 and whether they specifically talked about the cost 22 of medications.</p>
<p style="text-align: right;">115</p> <p>1 A. If memory serves me correctly, the 2 conversation would have been to look at the 3 possibility of utilizing those state pharmacies for 4 dispensing prescriptions. 5 Q. And why would that save costs, to utilize 6 the state pharmacies for dispensing prescriptions to 7 Medicaid recipients? 8 A. Well, the buying power with the Minnesota 9 multistate would have been expanded and would have 10 allowed -- it would just have expanded the pool of 11 patients that would be covered under that buying 12 group. 13 Q. And why would that have made a difference, 14 to expand the pool of buyers? 15 A. If the contracted price with the Minnesota 16 Multistate was sufficient, there may have been a 17 savings to the state on the medications. 18 Q. It would cost less to acquire the drugs? 19 A. Correct. 20 Q. But I take it this idea was not accepted. 21 Correct? 22 A. Correct.</p>	<p style="text-align: right;">117</p> <p>1 Q. How about with the state hospital? If I 2 remember your testimony correctly, at least for a 3 time you were the pharmacist at the state hospital. 4 A. Correct. 5 Q. I don't know if you had a conversation 6 with yourself or not on this, but after you left the 7 state hospital did you have any conversations with 8 the next pharmacist at the state hospital about drug 9 reimbursement or acquisition issues? 10 A. I may have. The pharmacist who was there 11 at the same time I was there, so there was more than 12 one pharmacist, just for point of clarification, his 13 name is John Warren, and I may have had 14 conversations with him about the cost of 15 prescriptions. It wouldn't be extraordinary in the 16 course of pharmacy to have those kinds of 17 conversations, but I can't pinpoint a date and a 18 time and what the content of that conversation may 19 have been. 20 Q. You mentioned John Warren. Is he still 21 employed at the state hospital? 22 A. No.</p>

Exhibit 69

Duarte, Charles

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Carson City, NV

January 10, 2007

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1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MASSACHUSETTS
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6 In re: PHARMACEUTICAL MDL DOCKET NO.
7 INDUSTRY AVERAGE
8 WHOLESALE PRICE LITIGATION. CIVIL ACTION
9 01CV12257-PBS
10

11 THIS DOCUMENT RELATES TO:
12 ALL ACTIONS.
13
14

15 DEPOSITION OF
16 CHARLES DUARTE
17 January 10, 2007
18 Carson City, Nevada
19
20

21
22 REPORTED BY: CONSTANCE S. EISENBERG, NV CCR #142, RMR

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1 Q. And that according to the letter, that
2 the aggregate drug purchase price was 18.85
3 percent below AWP?

4 A. That's what it says in the letter, yes.

5 Q. And that's all I'm asking for is just
6 what the letter says at this point.

7 In the second to the last paragraph that
8 we just looked at on the second page it indicates
9 that the Nevada Medicaid program is proposing to
10 change to AWP minus 10. Is it true that in the
11 late 1980s the Nevada Medicaid program did change
12 its pharmacy rate from AWP minus 5 to AWP minus
13 10?

14 A. I don't know the date that that state
15 plan amendment was implemented.

16 Q. Do you have a general sense as to the
17 time of when that was?

18 A. Actually not. This is new to me. I
19 knew it was before my tenure.

20 Q. Are you aware of any documents between
21 the date of this one, in 1986, and Ms. Lawrence's
22 email in 2002, the 16 year period, the intervening

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1 (Exhibit Duarte 013 marked for
2 identification.)

3 BY MR. DILLON:

4 Q. You've been handed what's been marked
5 Exhibit Duarte 013, is a letter from on the
6 National Association of Chain Drug Stores
7 letterhead, directed to Mr. Larry Reed, the Center
8 for Medicare and Medicaid services, dated December
9 17th, 2002 it's authored by John M. Coster.

10 A. Okay.

11 Q. This was a document we found in your
12 electronic files. Do you recall seeing this?

13 A. Yes.

14 Q. And why were you a recipient of this
15 letter? It doesn't appear to be addressed -- my
16 apologies, you are cc'd.

17 If I could direct your attention to the
18 last paragraph on the first page, the letter
19 states: "In addition, we do not believe that the
20 state can or should simply reduce one component of
21 pharmacy reimbursement without considering whether
22 total reimbursement is adequate. We do not

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1 believe that the state has done this. For
2 example, while the state pays dispensing fee of
3 \$4.76, our data indicate that the average cost of
4 dispensing a prescription in Nevada is \$7.91.
5 Actual cost to dispense Medicaid prescriptions may
6 be anywhere from 30 to 50 percent higher than this
7 amount."

8 Do you recall ever having conversation
9 with anyone at NACDS regarding the subject of that
10 paragraph?

11 A. I recall having discussion with NACDS
12 regarding this letter.

13 Q. Did you discuss their statement here
14 that their data showed that the average cost to
15 dispense a prescription in Nevada was \$7.91?

16 A. Yes.

17 Q. And do you have any information, surveys
18 that you have conducted, that would indicate that
19 that information provided, that the average cost
20 to dispense prescription in Nevada is \$7.91, is
21 incorrect?

22 A. Could you please repeat that question.

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1 Senior RX, Mental Health and Developmental
2 Services, Medicaid, veteran services, et cetera.
3 My specific questions were: What state programs
4 purchase prescription drugs, and two, do all of
5 these programs participate in MMCAP? If not, do
6 they participate in other cost saving purchase
7 programs?"

8 Has Medicaid ever utilized MMCAP?

9 A. I don't know what MMCAP stands for.

10 Q. Okay. Are you familiar with the fact
11 that some programs within the State of Nevada
12 purchase pharmaceuticals?

13 A. Yes.

14 Q. And do you know how they purchase them?

15 A. Not completely, but I do know how they
16 purchase drugs at some agencies.

17 Q. Okay. Which agencies are you familiar
18 with?

19 A. Primarily Mental Health and
20 Developmental Services.

21 Q. Do you know how Mental Health and
22 Developmental Services purchases drugs?